

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

GARY LEE MARCUM,

Plaintiff,

v.

CIVIL ACTION NO. 2:14-cv-24167

PRIME CARE HEALTH INC., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Gary Lee Marcum's Application to Proceed Without Prepayment of Fees (ECF No. 1) and his Complaint under 42 U.S.C. § 1983 (ECF No. 2). By Standing Order entered May 7, 2014, and filed in this case on August 1, 2014, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation (PF&R). Magistrate Judge Tinsley filed his PF&R (ECF No. 6) on March 27, 2017, recommending that this Court dismiss this case without prejudice for failure to prosecute, and deny as moot the Application to Proceed without Prepayment of Fees.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need


not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on April 13, 2017. To date, no objections have been filed.

Accordingly, the Court **ADOPTS** the PF&R (ECF No. 6), **DENIES AS MOOT** the Application to Proceed Without Prepayment of Fees (ECF No. 1), and **DISMISSES WITHOUT PREJUDICE** this case, for failure to prosecute, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 20, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE